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## ILLUSTRATIONS

None

APPENDIX F  
REGULATORY PROGRAM  
(RCS-CECW-B-13)

F-1.1. **Applicability.** This appendix includes all activities under the Regulatory Program appropriation title (96X3126).

F-1.2. **Activities Included.**

Activity Title	Category
Permit Evaluation	100
Enforcement and Resolution	200
Studies	300
Other Regulations	400
Environmental Impact Statements	500
Administrative Appeals	600

F-1.3. **Program Guidance.** Resources required by the division should be programmed under General Expenses. However, one Level 1 regulatory package should be submitted to cover costs for a single GS-13 appeal reviewer at division. It will not be submitted under a selected district but as a division package. Data will be transmitted electronically following guidance contained in the Civil Works Operation and Maintenance Automated Budget System Manual. Procedures for preparing input, for generating reports, and for updating data are also included in that manual. Division regulatory managers must rank all packages. Rankings of Level 2 packages are especially important. MSC's must insure that level 2 submissions reflect uniform and consistent levels of work effort among the districts and that submissions at Level 2 accurately reflect the required level of service defined in Level 2.

F-1.4. **Types of Activities (projects) and Work Functions.** Packages under the regulatory appropriation should be submitted for up to six activities (projects). Packages will be further identified according to one of three work functions. The five regulatory activities are Permit Evaluation-category 100, Enforcement 200, Studies-300, Other navigation regulations-400, Environmental Impact Statements (EISs)-500, and Administrative Appeals-600. The work function code will now be used to identify these activity (project) packages as 15.1 (Branch Labor/Operational Costs), 15.2 (Contracts, Major purchases, Miscellaneous) or 15.3 (Support by others). This will create packages that will be identified by both activity (project) and work function. (For programming purposes these regulatory activities are always treated as projects).

F-1.5. **Activities (Project) Categories.** The regulatory program is divided into six activity categories:

a. **Permit Evaluation (100).** Includes all costs related to the review and evaluation of permit applications under Section 9, 10, 103 and 404 as well as environmental assessments supporting this review. Cultural resource investigations, jurisdiction determinations, public hearings, and other activities related to application evaluation are included as are general permit development and consideration of activities under general permits. Cost for support items such as automated permit tracking systems or other computer or micrographic support and equipment purchases should be identified in description/argument.

b. **Enforcement (200).** Includes all costs related to compliance inspections, administrative civil penalties for compliance, ground and aerial surveillance, unauthorized activities and jurisdiction

determinations related to enforcement actions, and follow-up on violations. Nationally, about 20 to 25% of district resources is allocated for enforcement; except in austere years, when less is allocated.

c. **Studies (300).** Includes all costs related to studies such as jurisdiction studies (actual jurisdiction determinations are included under permit evaluation), mapping, wetland studies, shoreline inventories, and collection of data for environmental databases. No packages for studies may be included where a specific study is not identified and described.

d. **Other Regulations (400).** Includes all costs related to administration of the miscellaneous regulations such as danger zones and restricted areas, plus review of Section 402 applications. Recent security concerns may require a need for funds for administration of restricted areas.

e. **Environmental Impact Statements (EISs) (500).** Includes all costs required for preparation of EISs when Corps is lead or cooperating agency. Costs for all new project-specific EISs will be submitted as EIS packages under the Branch Labor work function category since review will occur in the regulatory branch. Some costs for programmatic EISs may require support from other offices and may be submitted under the Support by Others work function category. All EISs must be identified as either ongoing or projected and the percent probability of the EIS being required should be indicated. Costs associated with the review of non-Corps EISs are included under Permit Evaluation, unless the review is of an in-depth nature requiring more than \$2,000. No packages for EIS may be submitted where the EIS is not specifically identified.

f. **Administrative Appeals (600).** Costs to support one grade 13 appeals reviewer for regulatory decisions, including travel and related costs, at division offices; and any appeals costs at districts.

#### F-1.6. Work Function Categories.

a. **Branch Labor/Operational Costs (15.1).** Costs required to pay salaries and benefits of branch personnel (except contracted personnel) and normal office operational costs to support these personnel. Included are: overhead costs not separately charged as under paragraph c below, rent, utilities, communications, ADP, travel, training, reproduction, supplies, etc. New, major purchase or contracting requirements for office services not currently in use (or expansion of such contracts), and over \$25,000 should be shown under 15.2. Renewal of existing contracts, for office services ONLY, need not be listed separately under 15.2. Other, mission support type contracts, must be listed under 15.2, whether they are new or renewal of existing contracts. Generally, essential labor and operational costs will be submitted in levels 1 and 2; enhancement levels will be submitted under level 3. Under output measures, the number of FTEs supported by the funds in each 15.1 package will be required (see below). Some packages may provide enhancement levels of 15.1 office services without actually supporting FTEs; a zero may be entered for these packages. Comparisons will be made with past cost per FTE submissions. Each 15.1 package submitted will also be identified according to the five regulatory activities. Note that computer/RAMS costs should be submitted as one or more separate packages.

b. **Contracts, Major Purchases, Miscellaneous (15.2).** All contracts, including financial agreement with other agencies, in support of the regulatory mission (as opposed to normal office support contracts) should be shown here. Only expansion of office service contracts over \$25,000 need be shown here as defined in the previous paragraph for 15.1. Examples of work to be shown as 15.2 are: aerial photography; inspection contracts; cost sharing agreements with states or other Federal agencies; contractual personnel; personnel from other agencies paid with regulatory funds; data gathering contracts; major purchases of new computer systems, micrographic or other office systems, including Regulatory Automated Management System (RAMS), or major equipment purchases. Wherever

possible, these packages can be listed under a single activity rather than splitting between two or more activities, (e. g., \$50,000 for aerial photos could be shown as a single enforcement package if they will be used more for enforcement than for permit evaluation). Package size limitations in levels 2 and 3 may result in 15.2 packages having to be divided into two or more packages regardless. Note that Computer/RAMS costs should be submitted as one or more separate packages.

c. **Support by Others (15.3).** Costs for support by those organizations that direct charge to the regulatory program for their assistance on an "as needed" basis. Packages will need to be submitted for any of the five activities that are appropriate. Engineering, planning, counsel support, and IM each should be submitted as a separate package. Support work may also have to be divided between levels 1, 2 and 3.

F-1.7. **Funding Levels-** District regulatory program requirements should be submitted in the following levels, which will be tied to level 1:

a. **Level 1.** Packages should be submitted with total level 1 requirements not exceeding total FY ~~2000~~ 2001 district obligations. Packages may be submitted for all categories, except administrative appeals for jurisdiction determinations, which should be submitted in level 2. Level 1 should include a balanced, fully operational, albeit reduced, program. This ceiling **MUST** be used. It is expected that some critical work will have to be submitted in Level 2.

**Level 2.** The total of all cumulative packages (including level 1) should allow the district to provide (but not exceed) the following levels of service and performance: (1) complete 70% of Individual permits within 120 days and achieve an average evaluation time for standard permits of 120 days. Complete at least 85% of "all actions" in 60 days maintain current (mid-2001) level of service for all actions. (3) Site inspect ~~50%~~ 90% of wetland compensatory mitigation projects required as a result of standard individual permit decisions, (4) Site inspect 30% of wetland compensatory mitigation projects required as a result of general permit decisions, all permit actions that result in written authorization, (5) provide a level of enforcement that is approximately 20% of the total level 1+2 cost. NOTE: Districts which are currently exceeding any of these levels of service may have to put some dollars in level 3 to maintain current performance since only funds required to achieve, not exceed, the service outlined above are allowed in Level 2. For example, a district currently completing 80% of Individual permits in 120 days or spending 25% of their current budget on enforcement would be expected to show some funds for their current levels of effort in these areas in level 3. Funding arguments should indicate differences or similarities with current (PY-2 or PY-1) levels of effort. Packages of \$100,000 or less are preferred, but not required especially in large districts (those with FY ~~2000~~ 2001 obligations near \$4 million), or where large permit evaluation or enforcement packages are required to meet the performance levels above. Packages for new FTEs (not authorized in mid FY ~~2001~~ 2002) should be identified as new FTEs in the package description. Only packages for ongoing EIS's may be submitted in level 2. One package for Jurisdiction Determination appeals may be submitted as the LAST PACKAGE in level 2 but it should not exceed 3% of total level 1+2 costs. Packages for studies in level 2, including SAMP's or other watershed plans, may be submitted if they will provide significant benefit to management of the program workload.

c. **Level 3.** Additional packages may be submitted for level 3. There is no dollar limit on total level 3 funding requests. Costs for projected EIS's should be submitted. One or more packages should be submitted for costs associated with implementation of the final definition of the fill material rule (this rule provides an effect-based definition of fill material to be used by both the Corps and EPA. The effect of this rule is that, in conjunction with mining activities, the Corps will regulate the placement of overburden, i.e. rock and soil removed to expose the desired substance such as coal, as well as other substances generated by the mining event and having the effect of fill material, such as coal slurry, into waters of the U.S.) Packages for high priority SAMPS or other watershed management plans are encouraged. Note

that packages for current labor should be submitted as highest priority work in level 3 in cases where a district may be currently exceeding the performance requirements in level 2 and thus cannot include some labor in Level 2. Package size in level 3 should follow the same guidelines as level 2.

d. **Program Goals.** See Level 2.

F-1.8. **Output measures.** All 15.1 packages with labor require that the number of regulatory branch FTEs covered by the package be entered as an output measure. Use of the FTE output measure is optional for 15.2 package as it will often not be appropriate. No FTEs need be entered for 15.3 work as no regulatory branch FTEs are affected. Enter in tenths, i. e., enter 1 for .1; enter 11 for 1.1. It is likely that some of the 15.1 packages in level 3, for office operations without labor costs, will have zero entered for the FTE output indicator. *IMPORTANT:* In order to insure that labor packages are funded, districts should be certain that the appropriate number of FTEs is reflected; a zero will result in a package being ranked below most labor packages and possibly not being funded. Division Offices should check FTE output indicators thoroughly.

F-1.9. **Points of Contact.** Questions pertaining to policies, procedures, or format of the Regulatory Program activity should be referred to HQUSACE (CECW-OR), Mr. Frank Torbett, (202) 761-4618. Questions regarding ADP input for the same activity should be referred to HQUSACE (CECW-BC), Mr. Dennis Kern, (202) 761-4133.

F-1.10. **Submission Requirements.** The suspense date for submission of required materials from divisions is 28 June 2002 ~~2 July 2001~~.

F-1.11. **Five-Year Program.** A five-year regulatory program without dollar constraints will be developed based on resource needs and projected work effort. A dollar figure only will be submitted for each of the five regulatory categories for PY+1 through PY+4. Figures should be reasonable and should assume a continued emphasis on wetlands protection and meeting the 60- and 120-day goals. Increased contracting, where appropriate, should be assumed.

F-1.12. **Funding & Staffing Summary.** Each district should prepare and submit electronically to its division office the funding and staffing information in Table F-1. Divisions should forward these to CECW-OR electronically and also prepare and submit a division-level Table F-1. The division table will sum district amounts for each category and level (cumulatively; not by district). Divisions should add the division office amounts for Appeals to the summary table.

TABLE F-1					
DISTRICT/DIVISION _____					
FUNDING & STAFFING SUMMARY (\$000/FTEs)					
Activity	Level				
	1	2	3		
	Total	Increment	Total	Increment	Total
<b>Funding</b>					
Permit Evaluation					1,850
				230	
			1,620		
	1,400	220			
Enforcement					690
				150	
			540		
	440	100			
Studies					200
				50	
			150		
	100	50			
Other Navigation Regulations					0
				0	
			0		
	0	0			
EISs					60
				0	
			60		
	60	0			
Appeals					50
				20	
			30		
	0	30			
Total					2,850
				450	
			2,400		
	2,000	400			
<b>Staffing</b>					
All					21.5
				2	
			19.5		
	17	2.5			

Example